

COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject

Disabled Veterans Business Enterprise Program

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Purpose

To establish a Board Policy to facilitate Disabled Veterans Business Enterprises' (DVBE) ability to procure County contracts.

Background

Disabled veterans have made the ultimate contribution to their country. Their dedication and sacrifice have not gone unrecognized. Currently, both at the State and local level, this recognition and gratitude have been in the form of providing opportunities in the procurement of State and local contracts.

In keeping with that spirit, it is the intent of the County of San Diego to facilitate and encourage the participation of the disabled veteran businessperson. It is not the intent of the Board of Supervisors to enact this policy based on race or gender, nor is this policy intended to remedy the effects of any past discrimination against the disabled veteran businessperson. The Board desires to reaffirm the County's commitment to take affirmative action to provide economic opportunities to DVBEs in County procurements.

Policy

It is the policy of the Board of Supervisors to encourage the utilization and participation of DVBEs in all County procurements. To align the County's participation and preference policies with the State DVBE statutes and policy to the greatest extent possible, consistent with applicable law, the Director of Purchasing and Contracting is authorized to implement local preference procedures to increase the participation of State-certified, local DVBEs in small purchases under \$50,000 as long as these procedures do not conflict with other State, County or local policies or laws. To this end, this policy establishes a three-percent (3%) DVBE subcontracting participation goal for all contracts within the scope of this policy, as defined in Section I, "Scope," below, including both public works and other services contracts, where subcontracting is intended.

I. Scope.

This policy shall apply to all agreements, contracts, and purchase orders for services, including professional services awarded pursuant to Board of Supervisors' Policy F-40, (Procuring Architectural, Engineering and Related Professional Services) and all public works contracts, where such agreements or contracts are paid for in whole or in part out of County funds or from Special District

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funds where the Board of Supervisors is the governing body of such Special District, with the following exceptions:

1. Contracts exempt from County competitive procurement requirements or eligible for a sole source or other exception from County competitive procurement requirements, as described in Board of Supervisor's Policy A-87 (Competitive Procurement).
2. Agreements or memorandums of understanding with another government agency.
3. Contracts with a private, nonprofit organization.
4. Transfers or leases of any interest in real property.
5. Contracts with an entity identified as a small business concern pursuant to Board Policy B-53 (Small Business Policy).
6. Service contracts, to include engineering and professional service contracts that have an annual value of \$1 million or less to include task orders.
7. Contracts where the prime contractor on the contract is a DVBE.
8. All public works contracts where the procurement complies with any applicable federal or State DVBE requirements.

II. General Requirements.

1. Subject to any contrary provision of State or federal law, where a prime contractor intends to use subcontractors on any contract within the scope of this policy as described in Section I, "Scope," above, the procurement is not exempt from the DVBE requirements, and the procurement is for a public work that is estimated to exceed \$1 million, the prime contractor shall meet-or-exceed the requirement of 3% DVBE subcontractor participation. Compliance shall be calculated by taking the aggregate value of all DVBE subcontracts to be used on the project as a percentage of the total value of each such County contract.
2. Subject to any contrary provisions of State or federal law, where a prime contractor intends to use subcontractors on any contract within the scope of this policy as described in Section I, "Scope," above, the procurement is not exempt from the DVBE requirements, and the procurement is for a public work that is estimated to be between \$500,000 and \$1 million, the prime contractor shall make a good faith effort to meet-or-exceed goal of 3% DVBE subcontractor participation requirement. Compliance shall be calculated by taking the aggregate value of all DVBE subcontracts to be used on the project as a percentage of the total value of each such County contract. Contractors responding to solicitations for contracts within the

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scope of this policy shall document a good-faith effort to have complied with this goal, as described in Section III, "Method of Implementation," below. Failure to provide evidence upon request of a good-faith effort to comply with the 3% participation goal may be grounds for disqualification from contract award.

3. Subject to any contrary provision of State or federal law, where a prime contractor intends to use subcontractors on any contract within the scope of this policy as described in Section I, "Scope," above, the procurement is not exempt from the DVBE requirement, and the procurement is for services to include engineering and professional services estimated to exceed \$1 million annually, the prime contractor shall make a good faith effort to meet-or-exceed goal of 3% DVBE subcontractor participation requirement. Compliance shall be calculated by taking the aggregate value of all DVBE subcontractors to be used on the project as a percentage of the total value of each such County contract. Contractors responding to solicitations for contracts within the scope of this policy shall document a good-faith effort to have complied with this goal, as described in Section III, "Method of Implementation," below. Failure to provide evidence upon request of a good-faith effort to comply with the 3% participation goal may be grounds for disqualification from contract award. Indefinite delivery/indefinite quantity contracts such as job order contracts will be covered based on value of each task order.
4. Prime contractors subject to the DVBE requirement shall submit for County's review and approval a DVBE subcontractor utilization plan prior to commencing work.
5. If the lowest bidder does not comply with this Policy, an award will be made to the next lowest responsible and responsive bidder that complies with this policy.
6. The Director of Purchasing and Contracting may waive the DVBE requirement where enforcement of the DVBE requirement would preclude meaningful competition among vendors.

III. Method of Implementation.

1. The Department of Purchasing and Contracting, in cooperation with the Veterans Services Office, shall formulate and issue DVBE participation guidelines (DVBE

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Guidelines) to all County departments, specifying the procedures and processes to be followed to comply with the DVBE participation goal, or to document a good-faith effort to have complied with the goal. The DVBE Guidelines shall generally be based upon the Disabled Veterans business enterprise participation goal program for State contracts established by current California statutes and regulations.

2. Notwithstanding any provision of this policy to the contrary, to the extent of any conflict between this policy or the DVBE Guidelines, and any requirements imposed by the federal or State government relating to participation in a contract or subcontract by a DVBE as a condition of receipt of federal or State funds, the federal or State requirement shall prevail.
3. County Departments shall submit a completed Contract Award Documentation form to the awarding authority when recommending for award any County contract subject to the 3% DVBE subcontractor participation goal described in Section II, General Requirements.
4. After a review of the facts resulting in a recommendation to reject an apparent low-responsive bidder for inadequate efforts to meet the good-faith effort criteria for DVBE subcontractor participation outlined above, the Director of Purchasing and Contracting or designated representative shall make a written determination of non-responsiveness and the bid shall be rejected. Any protests of this decision shall only be accepted from the bidder itself, in its name, and shall be processed in accordance with procedures set forth in the Board of Supervisors Policy A-97 (Protest Procedures for Award of Contracts). The remainder of the bids may be evaluated sequentially in the same manner to determine if either the goal or good-faith effort has been met or the cost of the bid is acceptable.

Responsible Department(s)

1. Department of Purchasing and Contracting
2. Department of Public Works
3. Department of Park and Recreation
4. Department of General Services

Sunset Date

This policy will be reviewed for continuance by 12-31-2015.

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